

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN W. PEROTTI,

No. 05-60172

Plaintiff,

District Judge John Corbett O'Meara

v.

Magistrate Judge R. Steven Whalen

MS. MARLBERRY, ET AL.,

Defendants.

/

ORDER

Plaintiff's attorney, Ellis Boal, has filed a motion to withdraw as counsel [Doc. #240]. Withdrawal or termination of representation is governed by the Michigan Rules of Professional Conduct, specifically MRPC 1.16. Rule 1.16(a) states that an attorney must withdraw if discharged by the client. Rule 1.16(b) states that an attorney may withdraw "if withdrawal can be accomplished without material adverse effect on the interests of the client," or if "the client insists upon pursuing an objective that the lawyer considers repugnant or imprudent," or if "other good cause for withdrawal exists."¹

In his reply brief [Doc. #242], Mr. Boal indicates that he has solicited Plaintiff's position on the request for withdrawal, but has not heard from Plaintiff on the matter. Mr. Boal also asserts that he and the Plaintiff "have irreconcilable differences as to case-handling." It is unclear to the Court whether Plaintiff wishes to discharge Mr. Boal,

¹ Both Mr. Boal and Mr. Perotti refer to Plaintiff as "co-counsel." Mr. Perotti is not an attorney. Mr. Boal filed an appearance of counsel as Mr. Perotti's attorney. To be clear, then, Mr. Boal is the attorney and Mr. Perotti is the client, not the "co-counsel." If Mr. Boal is ultimately permitted to withdraw, then Mr. Perotti will proceed on a *pro se* basis, that is, without counsel. Likewise, if Mr. Boal is permitted to withdraw, then the Court will rule on the motions that Mr. Perotti has filed *pro se*.

MRPC 1.16(a)(3), or whether Plaintiff insists on pursuing a strategy that Mr. Boal finds imprudent or repugnant, MRPC 1.16(b)(3). In addition, given that the Plaintiff has not yet identified an expert witness, the Court has some concern that withdrawal might have an adverse effect on the Plaintiff's interests.

Therefore, IT IS ORDERED that Mr. Boal will, within 21 days of the date of this Order, obtain and file with the Court a written statement, signed by Mr. Perotti, indicating Mr. Perotti's agreement or disagreement with Mr. Boal's motion to withdraw.

IT IS FURTHER ORDERED that in the alternative, Mr. Perotti may file directly with the Court his written agreement or disagreement with Mr. Boal's motion to withdraw.

IT IS FURTHER ORDERED that Mr. Boal will forthwith mail a copy of this Order to Mr. Perotti.

IT IS FURTHER ORDERED that if the Court does not timely receive a signed statement from Mr. Perotti indicating his position on the motion to withdraw, the Court may grant the motion and permit Mr. Boal's withdrawal.

IT IS FURTHER ORDERED that all other proceedings in this case, including discovery, are STAYED pending a final order on the motion to withdraw.

s/ R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: May 24, 2018

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on May 24, 2018, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla
Case Manager to the
Honorable R. Steven Whalen